

AMENDED IN ASSEMBLY JULY 11, 2005

AMENDED IN SENATE MAY 10, 2005

**SENATE BILL**

**No. 1018**

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**Introduced by Senator Simitian**

**(Principal coauthors: Senators Alquist and Scott)**

(Principal coauthors: Assembly Members Berg, Evans, and Wolk)

**(Coauthors: Senators Kuehl and Romero)**

(Coauthors: Assembly Members Cohn and Pavley)

February 22, 2005

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An act to amend ~~Sections 15634~~, *repeal, and add Section 7480 of the Government Code, and to amend, repeal, and add Sections 15634, 15640, and 15655.5 of, and to add and repeal Section 15630.1 to of,* the Welfare and Institutions Code, relating to elder and dependent adult abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1018, as amended, Simitian. Elder and dependent adult abuse.

*Existing law provides for the confidentiality of financial records but does not prohibit various state and local officers and agencies from requesting information from an office or branch of a financial institution and the office or branch from responding to the request, as to whether a person has an account or accounts at that office or branch and if so, any identifying numbers of the account or accounts.*

*This bill, from January 1, 2007, to January 1, 2013, inclusive, would provide that a county adult protective services office and a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult is similarly not prohibited from requesting financial information and the office or branch is not prohibited from responding to the request.*

Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse. These procedures require persons, defined as mandated reporters, to report known or suspected instances of elder or dependent adult abuse. Under existing law, care custodians of elder or dependent adults and local law enforcement agencies are mandated reporters. A violation of the reporting requirements by a mandated reporter is a misdemeanor.

This bill, *from January 1, 2007, to January 1, 2013, inclusive*, would include within these reporting requirements mandated reporters of suspected financial abuse, as defined, and would, with certain exceptions, make failure to comply with these requirements subject to a civil penalty.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. This act shall be known as the Financial Elder*  
2     *Abuse Reporting Act of 2005.*

3     *SEC. 2. Section 7480 of the Government Code is amended to*  
4     *read:*

5     7480. Nothing in this chapter prohibits any of the following:

6     (a) The dissemination of any financial information that is not  
7     identified with, or identifiable as being derived from, the  
8     financial records of a particular customer.

9     (b) When any police or sheriff's department or district  
10    attorney in this state certifies to a bank, credit union, or savings  
11    association in writing that a crime report has been filed that  
12    involves the alleged fraudulent use of drafts, checks, or other  
13    orders drawn upon any bank, credit union, or savings association  
14    in this state, the police or sheriff's department or district attorney  
15    may request a bank, credit union, or savings association to  
16    furnish, and a bank, credit union, or savings association shall  
17    furnish, a statement setting forth the following information with  
18    respect to a customer account specified by the police or sheriff's  
19    department or district attorney for a period 30 days prior to, and  
20    up to 30 days following, the date of occurrence of the alleged  
21    illegal act involving the account:

22    (1) The number of items dishonored.

1 (2) The number of items paid that created overdrafts.

2 (3) The dollar volume of the dishonored items and items paid  
3 which created overdrafts and a statement explaining any credit  
4 arrangement between the bank, credit union, or savings  
5 association and customer to pay overdrafts.

6 (4) The dates and amounts of deposits and debits and the  
7 account balance on these dates.

8 (5) A copy of the signature card, including the signature and  
9 any addresses appearing on a customer's signature card.

10 (6) The date the account opened and, if applicable, the date the  
11 account closed.

12 (7) A bank, credit union, or savings association that provides  
13 the requesting party with copies of one or more complete account  
14 statements prepared in the regular course of business shall be  
15 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

16 (c) When any police or sheriff's department or district attorney  
17 in this state certifies to a bank, credit union, or savings  
18 association in writing that a crime report has been filed that  
19 involves the alleged fraudulent use of drafts, checks, or other  
20 orders drawn upon any bank, credit union, or savings association  
21 doing business in this state, the police or sheriff's department or  
22 district attorney may request, with the consent of the  
23 accountholder, the bank, credit union, or savings association to  
24 furnish, and the bank, credit union, or savings association shall  
25 furnish, a statement setting forth the following information with  
26 respect to a customer account specified by the police or sheriff's  
27 department or district attorney for a period 30 days prior to, and  
28 up to 30 days following, the date of occurrence of the alleged  
29 illegal act involving the account:

30 (1) The number of items dishonored.

31 (2) The number of items paid that created overdrafts.

32 (3) The dollar volume of the dishonored items and items paid  
33 which created overdrafts and a statement explaining any credit  
34 arrangement between the bank, credit union, or savings  
35 association and customer to pay overdrafts.

36 (4) The dates and amounts of deposits and debits and the  
37 account balance on these dates.

38 (5) A copy of the signature card, including the signature and  
39 any addresses appearing on a customer's signature card.

1 (6) The date the account opened and, if applicable, the date the  
2 account closed.

3 (7) A bank, credit union, or savings association doing business  
4 in this state that provides the requesting party with copies of one  
5 or more complete account statements prepared in the regular  
6 course of business shall be deemed to be in compliance with  
7 paragraphs (1), (2), (3), and (4).

8 (d) For purposes of subdivision (c), consent of the  
9 accountholder shall be satisfied if an accountholder provides to  
10 the financial institution and the person or entity seeking  
11 disclosure, a signed and dated statement containing all of the  
12 following:

13 (1) Authorization of the disclosure for the period specified in  
14 subdivision (c).

15 (2) The name of the agency or department to which disclosure  
16 is authorized and, if applicable, the statutory purpose for which  
17 the information is to be obtained.

18 (3) A description of the financial records that are authorized to  
19 be disclosed.

20 (e) (1) The Attorney General, a supervisory agency, the  
21 Franchise Tax Board, the State Board of Equalization, the  
22 Employment Development Department, the Controller or an  
23 inheritance tax referee when administering the Prohibition of Gift  
24 and Death Taxes (Part 8 (commencing with Section 13301) of  
25 Division 2 of the Revenue and Taxation Code), a police or  
26 sheriff's department or district attorney, *a county adult protective*  
27 *services office when investigating the financial abuse of an elder*  
28 *or dependent adult, a long-term care ombudsman when*  
29 *investigating the financial abuse of an elder or dependent adult,*  
30 a county welfare department when investigating welfare fraud, a  
31 county auditor-controller or director of finance when  
32 investigating fraud against the county, or the Department of  
33 Corporations when conducting investigations in connection with  
34 the enforcement of laws administered by the Commissioner of  
35 Corporations, from requesting of an office or branch of a  
36 financial institution, and the office or branch from responding to  
37 a request, as to whether a person has an account or accounts at  
38 that office or branch and, if so, any identifying numbers of the  
39 account or accounts.

1 (2) No additional information beyond that specified in this  
2 section shall be released to a county welfare department without  
3 either the accountholder's written consent or a judicial writ,  
4 search warrant, subpoena, or other judicial order.

5 (3) A county auditor-controller or director of finance who  
6 unlawfully discloses information he or she is authorized to  
7 request under this subdivision is guilty of the unlawful disclosure  
8 of confidential data, a misdemeanor, which shall be punishable as  
9 set forth in Section 7485.

10 (f) The examination by, or disclosure to, any supervisory  
11 agency of financial records that relate solely to the exercise of its  
12 supervisory function. The scope of an agency's supervisory  
13 function shall be determined by reference to statutes that grant  
14 authority to examine, audit, or require reports of financial records  
15 or financial institutions as follows:

16 (1) With respect to the Commissioner of Financial Institutions  
17 by reference to Division 1 (commencing with Section 99),  
18 Division 1.5 (commencing with Section 4800), Division 2  
19 (commencing with Section 5000), Division 5 (commencing with  
20 Section 14000), Division 7 (commencing with Section 18000),  
21 Division 15 (commencing with Section 31000), and Division 16  
22 (commencing with Section 33000) of the Financial Code.

23 (2) With respect to the Controller by reference to Title 10  
24 (commencing with Section 1300) of Part 3 of the Code of Civil  
25 Procedure.

26 (3) With respect to the Administrator of Local Agency  
27 Security by reference to Article 2 (commencing with Section  
28 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the  
29 Government Code.

30 (g) The disclosure to the Franchise Tax Board of (1) the  
31 amount of any security interest that a financial institution has in a  
32 specified asset of a customer or (2) financial records in  
33 connection with the filing or audit of a tax return or tax  
34 information return that are required to be filed by the financial  
35 institution pursuant to Part 10 (commencing with Section 17001),  
36 Part 11 (commencing with Section 23001), or Part 18  
37 (commencing with Section 38001) of the Revenue and Taxation  
38 Code.

39 (h) The disclosure to the State Board of Equalization of any of  
40 the following:

(1) The information required by Sections 6702, 6703, 8954, 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155, 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404, 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the Revenue and Taxation Code.

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Part 1 (commencing with Section 6001), Part 2 (commencing with Section 7301), Part 3 (commencing with Section 8601), Part 13 (commencing with Section 30001), Part 14 (commencing with Section 32001), and Part 17 (commencing with Section 37001) of Division 2 of the Revenue and Taxation Code.

(3) The amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(i) The disclosure to the Controller of the information required by Section 7853 of the Revenue and Taxation Code.

(j) The disclosure to the Employment Development Department of the amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(k) The disclosure by a construction lender, as defined in Section 3087 of the Civil Code, to the Registrar of Contractors, of information concerning the making of progress payments to a prime contractor requested by the registrar in connection with an investigation under Section 7108.5 of the Business and Professions Code.

(l) Upon receipt of a written request from a local child support agency referring to a support order pursuant to Section 17400 of the Family Code, a financial institution shall disclose the following information concerning the account or the person named in the request, whom the local child support agency shall identify, whenever possible, by social security number:

(1) If the request states the identifying number of an account at a financial institution, the name of each owner of the account.

(2) Each account maintained by the person at the branch to which the request is delivered, and, if the branch is able to make a computerized search, each account maintained by the person at any other branch of the financial institution located in this state.

1 (3) For each account disclosed pursuant to paragraphs (1) and  
2 (2), the account number, current balance, street address of the  
3 branch where the account is maintained, and, to the extent  
4 available through the branch's computerized search, the name  
5 and address of any other person listed as an owner.

6 (4) Whenever the request prohibits the disclosure, a financial  
7 institution shall not disclose either the request or its response, to  
8 an owner of the account or to any other person, except the  
9 officers and employees of the financial institution who are  
10 involved in responding to the request and to attorneys, employees  
11 of the local child support agencies, auditors, and regulatory  
12 authorities who have a need to know in order to perform their  
13 duties, and except as disclosure may be required by legal process.

14 (5) No financial institution, or any officer, employee, or agent  
15 thereof, shall be liable to any person for (A) disclosing  
16 information in response to a request pursuant to this subdivision,  
17 (B) failing to notify the owner of an account, or complying with  
18 a request under this paragraph not to disclose to the owner, the  
19 request or disclosure under this subdivision, or (C) failing to  
20 discover any account owned by the person named in the request  
21 pursuant to a computerized search of the records of the financial  
22 institution.

23 (6) The local child support agency may request information  
24 pursuant to this subdivision only when the local child support  
25 agency has received at least one of the following types of  
26 physical evidence:

27 (A) Any of the following, dated within the last three years:

28 (i) Form 599.

29 (ii) Form 1099.

30 (iii) A bank statement.

31 (iv) A check.

32 (v) A bank passbook.

33 (vi) A deposit slip.

34 (vii) A copy of a federal or state income tax return.

35 (viii) A debit or credit advice.

36 (ix) Correspondence that identifies the child support obligor  
37 by name, the bank, and the account number.

38 (x) Correspondence that identifies the child support obligor by  
39 name, the bank, and the banking services related to the account  
40 of the obligor.

1 (xi) An asset identification report from a federal agency.

2 (B) A sworn declaration of the custodial parent during the 12  
3 months immediately preceding the request that the person named  
4 in the request has had or may have had an account at an office or  
5 branch of the financial institution to which the request is made.

6 (7) Information obtained by a local child support agency  
7 pursuant to this subdivision shall be used only for purposes that  
8 are directly connected with the administration of the duties of the  
9 local child support agency pursuant to Section 17400 of the  
10 Family Code.

11 (m) (1) As provided in paragraph (1) of subdivision (c) of  
12 Section 666 of Title 42 of the United States Code, upon receipt of  
13 an administrative subpoena on the current federally approved  
14 interstate child support enforcement form, as approved by the  
15 federal Office of Management and Budget, a financial institution  
16 shall provide the information or documents requested by the  
17 administrative subpoena.

18 (2) The administrative subpoena shall refer to the current  
19 federal Office of Management and Budget control number and be  
20 signed by a person who states that he or she is an authorized  
21 agent of a state or county agency responsible for implementing  
22 the child support enforcement program set forth in Part D  
23 (commencing with Section 651) of Subchapter IV of Chapter 7  
24 of Title 42 of the United States Code. A financial institution may  
25 rely on the statements made in the subpoena and has no duty to  
26 inquire into the truth of any statement in the subpoena.

27 (3) If the person who signs the administrative subpoena directs  
28 a financial institution in writing not to disclose either the  
29 subpoena or its response to any owner of an account covered by  
30 the subpoena, the financial institution shall not disclose the  
31 subpoena or its response to the owner.

32 (4) No financial institution, or any officer, employee, or agent  
33 thereof, shall be liable to any person for (A) disclosing  
34 information or providing documents in response to a subpoena  
35 pursuant to this subdivision, (B) failing to notify any owner of an  
36 account covered by the subpoena or complying with a request not  
37 to disclose to the owner, the subpoena or disclosure under this  
38 subdivision, or (C) failing to discover any account owned by the  
39 person named in the subpoena pursuant to a computerized search  
40 of the records of the financial institution.



1 (n) The dissemination of financial information and records  
2 pursuant to any of the following:

3 (1) Compliance by a financial institution with the requirements  
4 of Section 2892 of the Probate Code.

5 (2) Compliance by a financial institution with the requirements  
6 of Section 2893 of the Probate Code.

7 (3) An order by a judge upon a written ex parte application by  
8 a peace officer showing specific and articulable facts that there  
9 are reasonable grounds to believe that the records or information  
10 sought are relevant and material to an ongoing investigation of a  
11 felony violation of Section 186.10 or of any felony subject to the  
12 enhancement set forth in Section 186.11.

13 (A) The ex parte application shall specify with particularity  
14 the records to be produced, which shall be only those of the  
15 individual or individuals who are the subject of the criminal  
16 investigation.

17 (B) The ex parte application and any subsequent judicial order  
18 shall be open to the public as a judicial record unless ordered  
19 sealed by the court, for a period of 60 days. The sealing of these  
20 records may be extended for 60-day periods upon a showing to  
21 the court that it is necessary for the continuance of the  
22 investigation. Sixty-day extensions may continue for up to one  
23 year or until termination of the investigation of the individual or  
24 individuals, whichever is sooner.

25 (C) The records ordered to be produced shall be returned to  
26 the peace officer applicant or his or her designee within a  
27 reasonable time period after service of the order upon the  
28 financial institution.

29 (D) Nothing in this subdivision shall preclude the financial  
30 institution from notifying a customer of the receipt of the order  
31 for production of records unless a court orders the financial  
32 institution to withhold notification to the customer upon a finding  
33 that the notice would impede the investigation.

34 (E) Where a court has made an order pursuant to this  
35 paragraph to withhold notification to the customer under this  
36 paragraph, the peace officer or law enforcement agency who  
37 obtained the financial information shall notify the customer by  
38 delivering a copy of the ex parte order to the customer within 10  
39 days of the termination of the investigation.

1 (4) No financial institution, or any officer, employee, or agent  
2 thereof, shall be liable to any person for any of the following:

3 (A) Disclosing information to a probate court pursuant to  
4 Sections 2892 and 2893.

5 (B) Disclosing information in response to a court order  
6 pursuant to paragraph (3).

7 (C) Complying with a court order under this subdivision not to  
8 disclose to the customer, the order, or the dissemination of  
9 information pursuant to the court order.

10 (o) Disclosure by a financial institution to a peace officer, as  
11 defined in Section 830.1 of the Penal Code, pursuant to the  
12 following:

13 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the  
14 Civil Code, provided that the financial institution has first  
15 complied with the requirements of paragraph (2) of subdivision  
16 (a) and subdivision (b) of Section 1748.95 of the Civil Code.

17 (2) Paragraph (1) of subdivision (a) of Section 4002 of the  
18 Financial Code, provided that the financial institution has first  
19 complied with the requirements of paragraph (2) of subdivision  
20 (a) and subdivision (b) of Section 4002 of the Financial Code.

21 (3) Paragraph (1) of subdivision (a) of Section 22470 of the  
22 Financial Code, provided that any financial institution that is a  
23 finance lender has first complied with the requirements of  
24 paragraph (2) of subdivision (a) and subdivision (b) of Section  
25 22470 of the Financial Code.

26 (p) When the governing board of the Public Employees'  
27 Retirement System or the State Teachers' Retirement System  
28 certifies in writing to a financial institution that a benefit  
29 recipient has died and that transfers to the benefit recipient's  
30 account at the financial institution from the retirement system  
31 occurred after the benefit recipient's date of death, the financial  
32 institution shall furnish the retirement system the name and  
33 address of any coowner, cosigner, or any other person who had  
34 access to the funds in the account following the date of the  
35 benefit recipient's death, or if the account has been closed, the  
36 name and address of the person who closed the account.

37 (q) When the retirement board of a retirement system  
38 established under the County Employees Retirement Law of  
39 1937 certifies in writing to a financial institution that a retired  
40 member or the beneficiary of a retired member has died and that

transfers to the account of the retired member or beneficiary of a retired member at the financial institution from the retirement system occurred after the date of death of the retired member or beneficiary of a retired member, the financial institution shall furnish the retirement system the name and address of any coowner, cosigner, or any other person who had access to the funds in the account following the date of death of the retired member or beneficiary of a retired member, or if the account has been closed, the name and address of the person who closed the account.

*(r) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.*

*SEC. 3. Section 7480 is added to the Government Code, to read:*

*7480. Nothing in this chapter prohibits any of the following:*

*(a) The dissemination of any financial information that is not identified with, or identifiable as being derived from, the financial records of a particular customer.*

*(b) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings association in writing that a crime report has been filed that involves the alleged fraudulent use of drafts, checks, or other orders drawn upon any bank, credit union, or savings association in this state, the police or sheriff's department or district attorney may request a bank, credit union, or savings association to furnish, and a bank, credit union, or savings association shall furnish, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to, and up to 30 days following, the date of occurrence of the alleged illegal act involving the account:*

*(1) The number of items dishonored.*

*(2) The number of items paid that created overdrafts.*

*(3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings association and customer to pay overdrafts.*

1     (4) *The dates and amounts of deposits and debits and the*  
2 *account balance on these dates.*

3     (5) *A copy of the signature card, including the signature and*  
4 *any addresses appearing on a customer's signature card.*

5     (6) *The date the account opened and, if applicable, the date*  
6 *the account closed.*

7     (7) *A bank, credit union, or savings association that provides*  
8 *the requesting party with copies of one or more complete account*  
9 *statements prepared in the regular course of business shall be*  
10 *deemed to be in compliance with paragraphs (1), (2), (3), and*  
11 *(4).*

12     (c) *When any police or sheriff's department or district*  
13 *attorney in this state certifies to a bank, credit union, or savings*  
14 *association in writing that a crime report has been filed that*  
15 *involves the alleged fraudulent use of drafts, checks, or other*  
16 *orders drawn upon any bank, credit union, or savings*  
17 *association doing business in this state, the police or sheriff's*  
18 *department or district attorney may request, with the consent of*  
19 *the accountholder, the bank, credit union, or savings association*  
20 *to furnish, and the bank, credit union, or savings association*  
21 *shall furnish, a statement setting forth the following information*  
22 *with respect to a customer account specified by the police or*  
23 *sheriff's department or district attorney for a period 30 days*  
24 *prior to, and up to 30 days following, the date of occurrence of*  
25 *the alleged illegal act involving the account:*

26         (1) *The number of items dishonored.*

27         (2) *The number of items paid that created overdrafts.*

28         (3) *The dollar volume of the dishonored items and items paid*  
29 *which created overdrafts and a statement explaining any credit*  
30 *arrangement between the bank, credit union, or savings*  
31 *association and customer to pay overdrafts.*

32         (4) *The dates and amounts of deposits and debits and the*  
33 *account balance on these dates.*

34         (5) *A copy of the signature card, including the signature and*  
35 *any addresses appearing on a customer's signature card.*

36         (6) *The date the account opened and, if applicable, the date*  
37 *the account closed.*

38         (7) *A bank, credit union, or savings association doing business*  
39 *in this state that provides the requesting party with copies of one*  
40 *or more complete account statements prepared in the regular*

1 course of business shall be deemed to be in compliance with  
2 paragraphs (1), (2), (3), and (4).

3 (d) For purposes of subdivision (c), consent of the  
4 accountholder shall be satisfied if an accountholder provides to  
5 the financial institution and the person or entity seeking  
6 disclosure, a signed and dated statement containing all of the  
7 following:

8 (1) Authorization of the disclosure for the period specified in  
9 subdivision (c).

10 (2) The name of the agency or department to which disclosure  
11 is authorized and, if applicable, the statutory purpose for which  
12 the information is to be obtained.

13 (3) A description of the financial records that are authorized  
14 to be disclosed.

15 (e) (1) The Attorney General, a supervisory agency, the  
16 Franchise Tax Board, the State Board of Equalization, the  
17 Employment Development Department, the Controller or an  
18 inheritance tax referee when administering the Prohibition of  
19 Gift and Death Taxes (Part 8 (commencing with Section 13301)  
20 of Division 2 of the Revenue and Taxation Code), a police or  
21 sheriff's department or district attorney, a county welfare  
22 department when investigating welfare fraud, a county  
23 auditor-controller or director of finance when investigating fraud  
24 against the county, or the Department of Corporations when  
25 conducting investigations in connection with the enforcement of  
26 laws administered by the Commissioner of Corporations, from  
27 requesting of an office or branch of a financial institution, and  
28 the office or branch from responding to a request, as to whether  
29 a person has an account or accounts at that office or branch and,  
30 if so, any identifying numbers of the account or accounts.

31 (2) No additional information beyond that specified in this  
32 section shall be released to a county welfare department without  
33 either the accountholder's written consent or a judicial writ,  
34 search warrant, subpoena, or other judicial order.

35 (3) A county auditor-controller or director of finance who  
36 unlawfully discloses information he or she is authorized to  
37 request under this subdivision is guilty of the unlawful disclosure  
38 of confidential data, a misdemeanor, which shall be punishable  
39 as set forth in Section 7485.

1     (f) *The examination by, or disclosure to, any supervisory*  
2 *agency of financial records that relate solely to the exercise of its*  
3 *supervisory function. The scope of an agency's supervisory*  
4 *function shall be determined by reference to statutes that grant*  
5 *authority to examine, audit, or require reports of financial*  
6 *records or financial institutions as follows:*

7     (1) *With respect to the Commissioner of Financial Institutions*  
8 *by reference to Division 1 (commencing with Section 99),*  
9 *Division 1.5 (commencing with Section 4800), Division 2*  
10 *(commencing with Section 5000), Division 5 (commencing with*  
11 *Section 14000), Division 7 (commencing with Section 18000),*  
12 *Division 15 (commencing with Section 31000), and Division 16*  
13 *(commencing with Section 33000) of the Financial Code.*

14     (2) *With respect to the Controller by reference to Title 10*  
15 *(commencing with Section 1300) of Part 3 of the Code of Civil*  
16 *Procedure.*

17     (3) *With respect to the Administrator of Local Agency Security*  
18 *by reference to Article 2 (commencing with Section 53630) of*  
19 *Chapter 4 of Part 1 of Division 2 of Title 5 of the Government*  
20 *Code.*

21     (g) *The disclosure to the Franchise Tax Board of (1) the*  
22 *amount of any security interest that a financial institution has in*  
23 *a specified asset of a customer or (2) financial records in*  
24 *connection with the filing or audit of a tax return or tax*  
25 *information return that are required to be filed by the financial*  
26 *institution pursuant to Part 10 (commencing with Section 17001),*  
27 *Part 11 (commencing with Section 23001), or Part 18*  
28 *(commencing with Section 38001) of the Revenue and Taxation*  
29 *Code.*

30     (h) *The disclosure to the State Board of Equalization of any of*  
31 *the following:*

32     (1) *The information required by Sections 6702, 6703, 8954,*  
33 *8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,*  
34 *41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,*  
35 *46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the*  
36 *Revenue and Taxation Code.*

37     (2) *The financial records in connection with the filing or audit*  
38 *of a tax return required to be filed by the financial institution*  
39 *pursuant to Part 1 (commencing with Section 6001), Part 2*  
40 *(commencing with Section 7301), Part 3 (commencing with*

1 *Section 8601), Part 13 (commencing with Section 30001), Part*  
2 *14 (commencing with Section 32001), and Part 17 (commencing*  
3 *with Section 37001) of Division 2 of the Revenue and Taxation*  
4 *Code.*

5 *(3) The amount of any security interest a financial institution*  
6 *has in a specified asset of a customer, if the inquiry is directed to*  
7 *the branch or office where the interest is held.*

8 *(i) The disclosure to the Controller of the information required*  
9 *by Section 7853 of the Revenue and Taxation Code.*

10 *(j) The disclosure to the Employment Development*  
11 *Department of the amount of any security interest a financial*  
12 *institution has in a specified asset of a customer, if the inquiry is*  
13 *directed to the branch or office where the interest is held.*

14 *(k) The disclosure by a construction lender, as defined in*  
15 *Section 3087 of the Civil Code, to the Registrar of Contractors,*  
16 *of information concerning the making of progress payments to a*  
17 *prime contractor requested by the registrar in connection with an*  
18 *investigation under Section 7108.5 of the Business and*  
19 *Professions Code.*

20 *(l) Upon receipt of a written request from a local child support*  
21 *agency referring to a support order pursuant to Section 17400 of*  
22 *the Family Code, a financial institution shall disclose the*  
23 *following information concerning the account or the person*  
24 *named in the request, whom the local child support agency shall*  
25 *identify, whenever possible, by social security number:*

26 *(1) If the request states the identifying number of an account*  
27 *at a financial institution, the name of each owner of the account.*

28 *(2) Each account maintained by the person at the branch to*  
29 *which the request is delivered, and, if the branch is able to make*  
30 *a computerized search, each account maintained by the person at*  
31 *any other branch of the financial institution located in this state.*

32 *(3) For each account disclosed pursuant to paragraphs (1)*  
33 *and (2), the account number, current balance, street address of*  
34 *the branch where the account is maintained, and, to the extent*  
35 *available through the branch's computerized search, the name*  
36 *and address of any other person listed as an owner.*

37 *(4) Whenever the request prohibits the disclosure, a financial*  
38 *institution shall not disclose either the request or its response, to*  
39 *an owner of the account or to any other person, except the*  
40 *officers and employees of the financial institution who are*

1 involved in responding to the request and to attorneys, employees  
2 of the local child support agencies, auditors, and regulatory  
3 authorities who have a need to know in order to perform their  
4 duties, and except as disclosure may be required by legal  
5 process.

6 (5) No financial institution, or any officer, employee, or agent  
7 thereof, shall be liable to any person for (A) disclosing  
8 information in response to a request pursuant to this subdivision,  
9 (B) failing to notify the owner of an account, or complying with a  
10 request under this paragraph not to disclose to the owner, the  
11 request or disclosure under this subdivision, or (C) failing to  
12 discover any account owned by the person named in the request  
13 pursuant to a computerized search of the records of the financial  
14 institution.

15 (6) The local child support agency may request information  
16 pursuant to this subdivision only when the local child support  
17 agency has received at least one of the following types of  
18 physical evidence:

19 (A) Any of the following, dated within the last three years:

20 (i) Form 599.

21 (ii) Form 1099.

22 (iii) A bank statement.

23 (iv) A check.

24 (v) A bank passbook.

25 (vi) A deposit slip.

26 (vii) A copy of a federal or state income tax return.

27 (viii) A debit or credit advice.

28 (ix) Correspondence that identifies the child support obligor  
29 by name, the bank, and the account number.

30 (x) Correspondence that identifies the child support obligor by  
31 name, the bank, and the banking services related to the account  
32 of the obligor.

33 (xi) An asset identification report from a federal agency.

34 (B) A sworn declaration of the custodial parent during the 12  
35 months immediately preceding the request that the person named  
36 in the request has had or may have had an account at an office  
37 or branch of the financial institution to which the request is  
38 made.

39 (7) Information obtained by a local child support agency  
40 pursuant to this subdivision shall be used only for purposes that



1 *are directly connected with the administration of the duties of the*  
2 *local child support agency pursuant to Section 17400 of the*  
3 *Family Code.*

4 *(m) (1) As provided in paragraph (1) of subdivision (c) of*  
5 *Section 666 of Title 42 of the United States Code, upon receipt of*  
6 *an administrative subpoena on the current federally approved*  
7 *interstate child support enforcement form, as approved by the*  
8 *federal Office of Management and Budget, a financial institution*  
9 *shall provide the information or documents requested by the*  
10 *administrative subpoena.*

11 *(2) The administrative subpoena shall refer to the current*  
12 *federal Office of Management and Budget control number and be*  
13 *signed by a person who states that he or she is an authorized*  
14 *agent of a state or county agency responsible for implementing*  
15 *the child support enforcement program set forth in Part D*  
16 *(commencing with Section 651) of Subchapter IV of Chapter 7 of*  
17 *Title 42 of the United States Code. A financial institution may*  
18 *rely on the statements made in the subpoena and has no duty to*  
19 *inquire into the truth of any statement in the subpoena.*

20 *(3) If the person who signs the administrative subpoena*  
21 *directs a financial institution in writing not to disclose either the*  
22 *subpoena or its response to any owner of an account covered by*  
23 *the subpoena, the financial institution shall not disclose the*  
24 *subpoena or its response to the owner.*

25 *(4) No financial institution, or any officer, employee, or agent*  
26 *thereof, shall be liable to any person for (A) disclosing*  
27 *information or providing documents in response to a subpoena*  
28 *pursuant to this subdivision, (B) failing to notify any owner of an*  
29 *account covered by the subpoena or complying with a request*  
30 *not to disclose to the owner, the subpoena or disclosure under*  
31 *this subdivision, or (C) failing to discover any account owned by*  
32 *the person named in the subpoena pursuant to a computerized*  
33 *search of the records of the financial institution.*

34 *(n) The dissemination of financial information and records*  
35 *pursuant to any of the following:*

36 *(1) Compliance by a financial institution with the*  
37 *requirements of Section 2892 of the Probate Code.*

38 *(2) Compliance by a financial institution with the*  
39 *requirements of Section 2893 of the Probate Code.*

1     (3) *An order by a judge upon a written ex parte application by*  
2 *a peace officer showing specific and articulable facts that there*  
3 *are reasonable grounds to believe that the records or*  
4 *information sought are relevant and material to an ongoing*  
5 *investigation of a felony violation of Section 186.10 or of any*  
6 *felony subject to the enhancement set forth in Section 186.11.*

7     (A) *The ex parte application shall specify with particularity*  
8 *the records to be produced, which shall be only those of the*  
9 *individual or individuals who are the subject of the criminal*  
10 *investigation.*

11     (B) *The ex parte application and any subsequent judicial*  
12 *order shall be open to the public as a judicial record unless*  
13 *ordered sealed by the court, for a period of 60 days. The sealing*  
14 *of these records may be extended for 60-day periods upon a*  
15 *showing to the court that it is necessary for the continuance of*  
16 *the investigation. Sixty-day extensions may continue for up to one*  
17 *year or until termination of the investigation of the individual or*  
18 *individuals, whichever is sooner.*

19     (C) *The records ordered to be produced shall be returned to*  
20 *the peace officer applicant or his or her designee within a*  
21 *reasonable time period after service of the order upon the*  
22 *financial institution.*

23     (D) *Nothing in this subdivision shall preclude the financial*  
24 *institution from notifying a customer of the receipt of the order*  
25 *for production of records unless a court orders the financial*  
26 *institution to withhold notification to the customer upon a finding*  
27 *that the notice would impede the investigation.*

28     (E) *Where a court has made an order pursuant to this*  
29 *paragraph to withhold notification to the customer under this*  
30 *paragraph, the peace officer or law enforcement agency who*  
31 *obtained the financial information shall notify the customer by*  
32 *delivering a copy of the ex parte order to the customer within 10*  
33 *days of the termination of the investigation.*

34     (4) *No financial institution, or any officer, employee, or agent*  
35 *thereof, shall be liable to any person for any of the following:*

36     (A) *Disclosing information to a probate court pursuant to*  
37 *Sections 2892 and 2893.*

38     (B) *Disclosing information in response to a court order*  
39 *pursuant to paragraph (3).*

1 (C) *Complying with a court order under this subdivision not to*  
2 *disclose to the customer, the order, or the dissemination of*  
3 *information pursuant to the court order.*

4 (o) *Disclosure by a financial institution to a peace officer, as*  
5 *defined in Section 830.1 of the Penal Code, pursuant to the*  
6 *following:*

7 (1) *Paragraph (1) of subdivision (a) of Section 1748.95 of the*  
8 *Civil Code, provided that the financial institution has first*  
9 *complied with the requirements of paragraph (2) of subdivision*  
10 *(a) and subdivision (b) of Section 1748.95 of the Civil Code.*

11 (2) *Paragraph (1) of subdivision (a) of Section 4002 of the*  
12 *Financial Code, provided that the financial institution has first*  
13 *complied with the requirements of paragraph (2) of subdivision*  
14 *(a) and subdivision (b) of Section 4002 of the Financial Code.*

15 (3) *Paragraph (1) of subdivision (a) of Section 22470 of the*  
16 *Financial Code, provided that any financial institution that is a*  
17 *finance lender has first complied with the requirements of*  
18 *paragraph (2) of subdivision (a) and subdivision (b) of Section*  
19 *22470 of the Financial Code.*

20 (p) *When the governing board of the Public Employees'*  
21 *Retirement System or the State Teachers' Retirement System*  
22 *certifies in writing to a financial institution that a benefit*  
23 *recipient has died and that transfers to the benefit recipient's*  
24 *account at the financial institution from the retirement system*  
25 *occurred after the benefit recipient's date of death, the financial*  
26 *institution shall furnish the retirement system the name and*  
27 *address of any coowner, cosigner, or any other person who had*  
28 *access to the funds in the account following the date of the*  
29 *benefit recipient's death, or if the account has been closed, the*  
30 *name and address of the person who closed the account.*

31 (q) *When the retirement board of a retirement system*  
32 *established under the County Employees Retirement Law of 1937*  
33 *certifies in writing to a financial institution that a retired member*  
34 *or the beneficiary of a retired member has died and that transfers*  
35 *to the account of the retired member or beneficiary of a retired*  
36 *member at the financial institution from the retirement system*  
37 *occurred after the date of death of the retired member or*  
38 *beneficiary of a retired member, the financial institution shall*  
39 *furnish the retirement system the name and address of any*  
40 *coowner, cosigner, or any other person who had access to the*

1 *funds in the account following the date of death of the retired*  
2 *member or beneficiary of a retired member, or if the account has*  
3 *been closed, the name and address of the person who closed the*  
4 *account.*

5 *(r) This section shall become operative on January 1, 2013.*

6 **SECTION 1.—**

7 SEC. 4. Section 15630.1 is added to the Welfare and  
8 Institutions Code, to read:

9 15630.1. (a) As used in this section, “mandated reporter of  
10 suspected financial-~~elder or dependent adult abuse~~” includes  
11 *abuse of an elder or dependent adult*” means all officers and  
12 employees of financial institutions.

13 (b) As used in this section, the term “financial institution”  
14 means any of the following:

15 (1) A depository institution, as defined in Section 3(c) of the  
16 Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).

17 (2) An institution-affiliated party, as defined in Section 3(u) of  
18 the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(u)).

19 (3) A federal credit union or state credit union, as defined in  
20 Section 101 of the Federal Credit Union Act (12 U.S.C. Sec.  
21 1752), including, but not limited to, an institution-affiliated party  
22 of a credit union, as defined in Section 206(r) of the Federal  
23 Credit Union Act (12 U.S.C. Sec. 1786(r)).

24 (c) As used in this section, “financial abuse” has the same  
25 meaning as in Section 15610.30.

26 (d) *(1)* Any mandated reporter of suspected financial-~~elder or~~  
27 ~~dependent adult abuse~~ *abuse of an elder or dependent adult* who  
28 has direct contact with the elder or dependent adult or who  
29 reviews or approves the elder or dependent adult’s financial  
30 documents, records, or transactions, in connection with providing  
31 financial services with respect to an elder or dependent adult, and  
32 who, within the scope of his or her employment~~and~~ *or*  
33 professional practice, has observed or has knowledge of an  
34 incident, that is directly related to the transaction or matter that is  
35 within that scope of employment or professional practice, that  
36 reasonably appears to be financial abuse, or who reasonably  
37 suspects that abuse, *based on the information before him or her*  
38 *standing alone*, shall report the known or suspected instance of  
39 financial abuse by telephone immediately, or as soon as  
40 practicably possible, and by written report sent within two

1 working days to the local adult protective services agency or the  
2 local law enforcement agency.

3 *(2) When two or more mandated reporters jointly have*  
4 *knowledge or reasonably suspect that financial abuse of an elder*  
5 *or a dependent adult for which the report is mandated has*  
6 *occurred, and when there is an agreement among them, the*  
7 *telephone report may be made by a member of the reporting team*  
8 *who is selected by mutual agreement. A single report may be*  
9 *made and signed by the selected member of the reporting team.*  
10 *Any member of the team who has knowledge that the member*  
11 *designated to report has failed to do so shall thereafter make that*  
12 *report.*

13 *(3) If the mandated reporter knows that the elder or dependent*  
14 *adult resides in a long-term care facility, as defined in Section*  
15 *15610.47, the report shall be made to the local ombudsman or*  
16 *local law enforcement agency.*

17 (e) An allegation by the elder or dependent adult, or any other  
18 person, that financial abuse has occurred is not sufficient to  
19 trigger the reporting requirement under this section if both of the  
20 following conditions are met:

21 (1) The mandated reporter of suspected financial ~~elder or~~  
22 ~~dependent adult abuse~~ *abuse of an elder or dependent adult* is  
23 aware of no other corroborating or independent evidence of the  
24 alleged financial ~~elder or dependent adult abuse~~ *abuse of an elder*  
25 *or dependent adult*. The mandated reporter of suspected financial  
26 ~~elder or dependent adult abuse~~ *abuse of an elder or dependent*  
27 *adult* is not required to investigate any accusations.

28 (2) In the exercise of his or her professional judgment, the  
29 mandated reporter of suspected financial ~~elder or dependent adult~~  
30 ~~abuse~~ *abuse of an elder or dependent adult* reasonably believes  
31 that financial ~~elder or dependent adult abuse~~ *abuse of an elder or*  
32 *dependent adult* did not occur.

33 (f) Failure to report financial abuse under this section shall be  
34 subject to a civil penalty not exceeding one thousand dollars  
35 (\$1,000) or if the ~~failure to report results in great bodily injury or~~  
36 ~~death of the elder or dependent adult~~ *failure to report is willful*, a  
37 civil penalty not exceeding five thousand dollars (\$5,000), which  
38 shall be paid by the financial institution who is the employer of  
39 the mandated reporter to the party bringing the action.

1 Subdivision (h) of Section 15630 shall not apply to violations of  
2 this section.

3 ~~(g) A person employed as a teller in an institution described in~~  
4 ~~paragraphs (1) and (2) of subdivision (b) shall not be subject to~~  
5 ~~subdivision (h) of Section 15630 during the first six months of~~  
6 ~~his or her employment.~~

7 *(g) (1) The civil penalty provided for in subdivision (f) shall*  
8 *be recovered only in a civil action brought against the financial*  
9 *institution by the Attorney General, district attorney, or county*  
10 *counsel. No action shall be brought under this section by any*  
11 *party other than the Attorney General, district attorney, or*  
12 *county counsel. Multiple actions for the civil penalty may not be*  
13 *brought for the same violation.*

14 *(2) Nothing in this section shall be construed to limit, expand,*  
15 *or otherwise modify any civil liability or remedy that may exist*  
16 *under this or any other law.*

17 (h) As used in this section, “suspected financial-elder-or  
18 ~~dependent adult abuse~~” *abuse of an elder or dependent adult*”  
19 occurs when a person who is required to report under subdivision  
20 (a) observes or has knowledge of behavior or unusual  
21 circumstances or transactions, or a pattern of behavior or unusual  
22 circumstances or transactions, that would lead an individual with  
23 like training or experience, based on the same facts, to form a  
24 reasonable belief that an elder or dependent adult is the victim of  
25 financial abuse as defined in Section 15610.30.

26 *(i) Reports of suspected financial abuse of an elder or*  
27 *dependent adult made by an employee or officer of a financial*  
28 *institution pursuant to this section are covered under subdivision*  
29 *(b) of Section 47 of the Civil Code.*

30 *(j) This section shall remain in effect only until January 1,*  
31 *2013, and as of that date is repealed, unless a later enacted*  
32 *statute, that is enacted before January 1, 2013, deletes or extends*  
33 *that date.*

34 *SEC. 5. Section 15633 of the Welfare and Institutions Code is*  
35 *amended to read:*

36 15633. (a) The reports made pursuant to Sections 15630,  
37 15630.1, and 15631 shall be confidential and may be disclosed  
38 only as provided in subdivision (b). Any violation of the  
39 confidentiality required by this chapter is a misdemeanor  
40 punishable by not more than six months in the county jail, by a

1 fine of five hundred dollars (\$500), or by both that fine and  
2 imprisonment.

3 (b) Reports of suspected *abuse of an* elder or dependent adult  
4 ~~abuse~~ and information contained therein may be disclosed only to  
5 the following:

6 (1) Persons or agencies to whom disclosure of information or  
7 the identity of the reporting party is permitted under Section  
8 15633.5.

9 (2) (A) Persons who are trained and qualified to serve on  
10 multidisciplinary personnel teams may disclose to one another  
11 information and records that are relevant to the prevention,  
12 identification, or treatment of abuse of elderly or dependent  
13 persons.

14 (B) Except as provided in subparagraph (A), any personnel of  
15 the multidisciplinary team or agency that receives information  
16 pursuant to this chapter, shall be under the same obligations and  
17 subject to the same confidentiality penalties as the person  
18 disclosing or providing that information. The information  
19 obtained shall be maintained in a manner that ensures the  
20 maximum protection of privacy and confidentiality rights.

21 (c) This section shall not be construed to allow disclosure of  
22 any reports or records relevant to the reports of *abuse of an* elder  
23 or dependent adult ~~abuse~~ if the disclosure would be prohibited by  
24 any other provisions of state or federal law applicable to the  
25 reports or records relevant to the reports of the abuse, *nor shall it*  
26 *be construed to prohibit the disclosure by a financial institution*  
27 *of any reports or records relevant to the reports of abuse of an*  
28 *elder or dependent adult if the disclosure would be required of a*  
29 *financial institution by otherwise applicable state or federal law*  
30 *or court order.*

31 (d) *This section shall remain in effect only until January 1,*  
32 *2013, and as of that date is repealed, unless a later enacted*  
33 *statute, that is enacted before January 1, 2013, deletes or extends*  
34 *that date.*

35 SEC. 6. Section 15633 is added to the Welfare and  
36 Institutions Code, to read:

37 15633. (a) *The reports made pursuant to Sections 15630 and*  
38 *15631 shall be confidential and may be disclosed only as*  
39 *provided in subdivision (b). Any violation of the confidentiality*  
40 *required by this chapter is a misdemeanor punishable by not*

1 *more than six months in the county jail, by a fine of five hundred*  
2 *dollars (\$500), or by both that fine and imprisonment.*

3 *(b) Reports of suspected elder or dependent adult abuse and*  
4 *information contained therein may be disclosed only to the*  
5 *following:*

6 *(1) Persons or agencies to whom disclosure of information or*  
7 *the identity of the reporting party is permitted under Section*  
8 *15633.5.*

9 *(2) (A) Persons who are trained and qualified to serve on*  
10 *multidisciplinary personnel teams may disclose to one another*  
11 *information and records that are relevant to the prevention,*  
12 *identification, or treatment of abuse of elderly or dependent*  
13 *persons.*

14 *(B) Except as provided in subparagraph (A), any personnel of*  
15 *the multidisciplinary team or agency that receives information*  
16 *pursuant to this chapter, shall be under the same obligations and*  
17 *subject to the same confidentiality penalties as the person*  
18 *disclosing or providing that information. The information*  
19 *obtained shall be maintained in a manner that ensures the*  
20 *maximum protection of privacy and confidentiality rights.*

21 *(c) This section shall not be construed to allow disclosure of*  
22 *any reports or records relevant to the reports of elder or*  
23 *dependent adult abuse if the disclosure would be prohibited by*  
24 *any other provisions of state or federal law applicable to the*  
25 *reports or records relevant to the reports of the abuse.*

26 *(d) This section shall become operative on January 1, 2013.*

27 **SEC. 2.—**

28 **SEC. 7.** Section 15634 of the Welfare and Institutions Code is  
29 amended to read:

30 15634. (a) No care custodian, clergy member, health  
31 practitioner, mandated reporter of suspected financial-~~elder or~~  
32 ~~dependent adult abuse~~ *abuse of an elder or dependent adult*, or  
33 employee of an adult protective services agency or a local law  
34 enforcement agency who reports a known or suspected instance  
35 of ~~elder or dependent adult abuse~~ *abuse of an elder or dependent*  
36 *adult* shall be civilly or criminally liable for any report required  
37 or authorized by this article. Any other person reporting a known  
38 or suspected instance of ~~elder or dependent adult abuse~~ *abuse of*  
39 *an elder or dependent adult* shall not incur civil or criminal  
40 liability as a result of any report authorized by this article, unless



1 it can be proven that a false report was made and the person  
2 knew that the report was false. No person required to make a  
3 report pursuant to this article, or any person taking photographs  
4 at his or her discretion, shall incur any civil or criminal liability  
5 for taking photographs of a suspected victim of ~~elder or~~  
6 ~~dependent adult abuse~~ *abuse of an elder or dependent adult* or  
7 causing photographs to be taken of such a suspected victim or for  
8 disseminating the photographs with the reports required by this  
9 article. However, this section shall not be construed to grant  
10 immunity from this liability with respect to any other use of the  
11 photographs.

12 (b) No care custodian, clergy member, health practitioner,  
13 mandated reporter of suspected financial ~~elder or dependent adult~~  
14 ~~abuse~~ *abuse of an elder or dependent adult*, or employee of an  
15 adult protective services agency or a local law enforcement  
16 agency who, pursuant to a request from an adult protective  
17 services agency or a local law enforcement agency investigating  
18 a report of known or suspected ~~elder or dependent adult abuse~~  
19 *abuse of an elder or dependent adult*, provides the requesting  
20 agency with access to the victim of a known or suspected  
21 instance of ~~elder or dependent adult abuse~~ *abuse of an elder or*  
22 *dependent adult*, shall incur civil or criminal liability as a result  
23 of providing that access.

24 (c) The Legislature finds that, even though it has provided  
25 immunity from liability to persons required to report *abuse of an*  
26 *elder or dependent adult* ~~abuse~~, immunity does not eliminate the  
27 possibility that actions may be brought against those persons  
28 based upon required reports of abuse. In order to further limit the  
29 financial hardship that those persons may incur as a result of  
30 fulfilling their legal responsibilities, it is necessary that they not  
31 be unfairly burdened by legal fees incurred in defending those  
32 actions. Therefore, a care custodian, clergy member, health  
33 practitioner, or an employee of an adult protective services  
34 agency or a local law enforcement agency may present to the  
35 State Board of Control a claim for reasonable attorneys' fees  
36 incurred in any action against that person on the basis of making  
37 a report required or authorized by this article if the court has  
38 dismissed the action upon a demurrer or motion for summary  
39 judgment made by that person, or if he or she prevails in the  
40 action. The State Board of Control shall allow that claim if the

1 requirements of this subdivision are met, and the claim shall be  
2 paid from an appropriation to be made for that purpose.  
3 Attorneys' fees awarded pursuant to this section shall not exceed  
4 an hourly rate greater than the rate charged by the Attorney  
5 General at the time the award is made and shall not exceed an  
6 aggregate amount of fifty thousand dollars (\$50,000). This  
7 subdivision shall not apply if a public entity has provided for the  
8 defense of the action pursuant to Section 995 of the Government  
9 Code.

10 *(d) This section shall remain in effect only until January 1,*  
11 *2013, and as of that date is repealed, unless a later enacted*  
12 *statute, that is enacted before January 1, 2013, deletes or extends*  
13 *that date.*

14 *SEC. 8. Section 15634 is added to the Welfare and*  
15 *Institutions Code, to read:*

16 *15634. (a) No care custodian, clergy member, health*  
17 *practitioner, or employee of an adult protective service agency*  
18 *or a local law enforcement agency who reports a known or*  
19 *suspected instance of elder or dependent adult abuse shall be*  
20 *civilly or criminally liable for any report required or authorized*  
21 *by this article. Any other person reporting a known or suspected*  
22 *instance of elder or dependent adult abuse shall not incur civil or*  
23 *criminal liability as a result of any report authorized by this*  
24 *article, unless it can be proven that a false report was made and*  
25 *the person knew that the report was false. No person required to*  
26 *make a report pursuant to this article, or any person taking*  
27 *photographs at his or her discretion, shall incur any civil or*  
28 *criminal liability for taking photographs of a suspected victim of*  
29 *elder or dependent adult abuse or causing photographs to be*  
30 *taken of such a suspected victim or for disseminating the*  
31 *photographs with the reports required by this article. However,*  
32 *this section shall not be construed to grant immunity from this*  
33 *liability with respect to any other use of the photographs.*

34 *(b) No care custodian, clergy member, health practitioner, or*  
35 *employee of an adult protective services agency or a local law*  
36 *enforcement agency who, pursuant to a request from an adult*  
37 *protective services agency or a local law enforcement agency*  
38 *investigating a report of known or suspected elder or dependent*  
39 *adult abuse, provides the requesting agency with access to the*  
40 *victim of a known or suspected instance of elder or dependent*

1 *adult abuse, shall incur civil or criminal liability as a result of*  
2 *providing that access.*

3 *(c) The Legislature finds that, even though it has provided*  
4 *immunity from liability to persons required to report elder or*  
5 *dependent adult abuse, immunity does not eliminate the*  
6 *possibility that actions may be brought against those persons*  
7 *based upon required reports of abuse. In order to further limit*  
8 *the financial hardship that those persons may incur as a result of*  
9 *fulfilling their legal responsibilities, it is necessary that they not*  
10 *be unfairly burdened by legal fees incurred in defending those*  
11 *actions. Therefore, a care custodian, clergy member, health*  
12 *practitioner, or an employee of an adult protective services*  
13 *agency or a local law enforcement agency may present to the*  
14 *State Board of Control a claim for reasonable attorneys' fees*  
15 *incurred in any action against that person on the basis of making*  
16 *a report required or authorized by this article if the court has*  
17 *dismissed the action upon a demurrer or motion for summary*  
18 *judgment made by that person, or if he or she prevails in the*  
19 *action. The State Board of Control shall allow that claim if the*  
20 *requirements of this subdivision are met, and the claim shall be*  
21 *paid from an appropriation to be made for that purpose.*  
22 *Attorneys' fees awarded pursuant to this section shall not exceed*  
23 *an hourly rate greater than the rate charged by the Attorney*  
24 *General at the time the award is made and shall not exceed an*  
25 *aggregate amount of fifty thousand dollars (\$50,000). This*  
26 *subdivision shall not apply if a public entity has provided for the*  
27 *defense of the action pursuant to Section 995 of the Government*  
28 *Code.*

29 *(d) This section shall become operative on January 1, 2013.*

30 *SEC. 9. Section 15640 of the Welfare and Institutions Code is*  
31 *amended to read:*

32 *15640. (a) (1) An adult protective services agency shall*  
33 *immediately, or as soon as practically possible, report by*  
34 *telephone to the law enforcement agency having jurisdiction over*  
35 *the case any known or suspected instance of criminal activity,*  
36 *and to any public agency given responsibility for investigation in*  
37 *that jurisdiction of cases of elder and dependent adult abuse,*  
38 *every known or suspected instance of abuse pursuant to Section*  
39 *15630 or 15630.1 of an elder or dependent adult. A county adult*  
40 *protective services agency shall also send a written report thereof*

1 within two working days of receiving the information concerning  
2 the incident to each agency to which it is required to make a  
3 telephone report under this subdivision. Prior to making any  
4 cross-report of allegations of financial abuse to law enforcement  
5 agencies, an adult protective services agency shall first determine  
6 whether there is reasonable suspicion of any criminal activity.

7 (2) If an adult protective services agency receives a report of  
8 abuse alleged to have occurred in a long-term care facility, that  
9 adult protective services agency shall immediately inform the  
10 person making the report that he or she is required to make the  
11 report to the long-term care ombudsman program or to a local  
12 law enforcement agency. The adult protective services agency  
13 shall not accept the report by telephone but shall forward any  
14 written report received to the long-term care ombudsman.

15 (b) If an adult protective services agency or local law  
16 enforcement agency or ombudsman program receiving a report  
17 of known or suspected elder or dependent adult abuse  
18 determines, pursuant to its investigation, that the abuse is being  
19 committed by a health practitioner licensed under Division 2  
20 (commencing with Section 500) of the Business and Professions  
21 Code, or any related initiative act, or by a person purporting to be  
22 a licensee, the adult protective services agency or local law  
23 enforcement agency or ombudsman program shall immediately,  
24 or as soon as practically possible, report this information to the  
25 appropriate licensing agency. The licensing agency shall  
26 investigate the report in light of the potential for physical harm.  
27 The transmittal of information to the appropriate licensing  
28 agency shall not relieve the adult protective services agency or  
29 local law enforcement agency or ombudsman program of the  
30 responsibility to continue its own investigation as required under  
31 applicable provisions of law. The information reported pursuant  
32 to this paragraph shall remain confidential and shall not be  
33 disclosed.

34 (c) A local law enforcement agency shall immediately, or as  
35 soon as practically possible, report by telephone to the long-term  
36 care ombudsman program when the abuse is alleged to have  
37 occurred in a long-term care facility or to the county adult  
38 protective services agency when it is alleged to have occurred  
39 anywhere else, and to the agency given responsibility for the  
40 investigation of cases of elder and dependent adult abuse every

1 known or suspected instance of abuse of an elder or dependent  
2 adult. A local law enforcement agency shall also send a written  
3 report thereof within two working days of receiving the  
4 information concerning the incident to any agency to which it is  
5 required to make a telephone report under this subdivision.

6 (d) A long-term care ombudsman coordinator may report the  
7 instance of abuse to the county adult protective services agency  
8 or to the local law enforcement agency for assistance in the  
9 investigation of the abuse if the victim gives his or her consent. A  
10 long-term care ombudsman program and the Licensing and  
11 Certification Division of the State Department of Health Services  
12 shall immediately report by telephone and in writing within two  
13 working days to the bureau any instance of neglect occurring in a  
14 health care facility, that has seriously harmed any patient or  
15 reasonably appears to present a serious threat to the health or  
16 physical well-being of a patient in that facility. If a victim or  
17 potential victim of the neglect withholds consent to being  
18 identified in that report, the report shall contain circumstantial  
19 information about the neglect but shall not identify that victim or  
20 potential victim and the bureau and the reporting agency shall  
21 maintain the confidentiality of the report until the report becomes  
22 a matter of public record.

23 (e) When a county adult protective services agency, a  
24 long-term care ombudsman program, or a local law enforcement  
25 agency receives a report of abuse, neglect, or abandonment of an  
26 elder or dependent adult alleged to have occurred in a long-term  
27 care facility, that county adult protective services agency,  
28 long-term care ombudsman coordinator, or local law  
29 enforcement agency shall report the incident to the licensing  
30 agency by telephone as soon as possible.

31 (f) County adult protective services agencies, long-term care  
32 ombudsman programs, and local law enforcement agencies shall  
33 report the results of their investigations of referrals or reports of  
34 abuse to the respective referring or reporting agencies.

35 (g) *This section shall remain in effect only until January 1,*  
36 *2013, and as of that date is repealed, unless a later enacted*  
37 *statute, that is enacted before January 1, 2013, deletes or extends*  
38 *that date.*

39 SEC. 10. Section 15640 is added to the Welfare and  
40 Institutions Code, to read:

1     15640. (a) (1) *An adult protective services agency shall*  
2 *immediately, or as soon as practically possible, report by*  
3 *telephone to the law enforcement agency having jurisdiction over*  
4 *the case any known or suspected instance of criminal activity,*  
5 *and to any public agency given responsibility for investigation in*  
6 *that jurisdiction of cases of elder and dependent adult abuse,*  
7 *every known or suspected instance of abuse pursuant to Section*  
8 *15630 of an elder or dependent adult. A county adult protective*  
9 *services agency shall also send a written report thereof within*  
10 *two working days of receiving the information concerning the*  
11 *incident to each agency to which it is required to make a*  
12 *telephone report under this subdivision. Prior to making any*  
13 *cross-report of allegations of financial abuse to law enforcement*  
14 *agencies, an adult protective services agency shall first*  
15 *determine whether there is reasonable suspicion of any criminal*  
16 *activity.*

17     (2) *If an adult protective services agency receives a report of*  
18 *abuse alleged to have occurred in a long-term care facility, that*  
19 *adult protective services agency shall immediately inform the*  
20 *person making the report that he or she is required to make the*  
21 *report to the long-term care ombudsman program or to a local*  
22 *law enforcement agency. The adult protective services agency*  
23 *shall not accept the report by telephone but shall forward any*  
24 *written report received to the long-term care ombudsman.*

25     (b) *If an adult protective services agency or local law*  
26 *enforcement agency or ombudsman program receiving a report*  
27 *of known or suspected elder or dependent adult abuse*  
28 *determines, pursuant to its investigation, that the abuse is being*  
29 *committed by a health practitioner licensed under Division 2*  
30 *(commencing with Section 500) of the Business and Professions*  
31 *Code, or any related initiative act, or by a person purporting to*  
32 *be a licensee, the adult protective services agency or local law*  
33 *enforcement agency or ombudsman program shall immediately,*  
34 *or as soon as practically possible, report this information to the*  
35 *appropriate licensing agency. The licensing agency shall*  
36 *investigate the report in light of the potential for physical harm.*  
37 *The transmittal of information to the appropriate licensing*  
38 *agency shall not relieve the adult protective services agency or*  
39 *local law enforcement agency or ombudsman program of the*  
40 *responsibility to continue its own investigation as required under*

1 applicable provisions of law. The information reported pursuant  
2 to this paragraph shall remain confidential and shall not be  
3 disclosed.

4 (c) A local law enforcement agency shall immediately, or as  
5 soon as practically possible, report by telephone to the long-term  
6 care ombudsman program when the abuse is alleged to have  
7 occurred in a long-term care facility or to the county adult  
8 protective services agency when it is alleged to have occurred  
9 anywhere else, and to the agency given responsibility for the  
10 investigation of cases of elder and dependent adult abuse every  
11 known or suspected instance of abuse of an elder or dependent  
12 adult. A local law enforcement agency shall also send a written  
13 report thereof within two working days of receiving the  
14 information concerning the incident to any agency to which it is  
15 required to make a telephone report under this subdivision.

16 (d) A long-term care ombudsman coordinator may report the  
17 instance of abuse to the county adult protective services agency  
18 or to the local law enforcement agency for assistance in the  
19 investigation of the abuse if the victim gives his or her consent. A  
20 long-term care ombudsman program and the Licensing and  
21 Certification Division of the State Department of Health Services  
22 shall immediately report by telephone and in writing within two  
23 working days to the bureau any instance of neglect occurring in  
24 a health care facility, that has seriously harmed any patient or  
25 reasonably appears to present a serious threat to the health or  
26 physical well-being of a patient in that facility. If a victim or  
27 potential victim of the neglect withholds consent to being  
28 identified in that report, the report shall contain circumstantial  
29 information about the neglect but shall not identify that victim or  
30 potential victim and the bureau and the reporting agency shall  
31 maintain the confidentiality of the report until the report becomes  
32 a matter of public record.

33 (e) When a county adult protective services agency, a  
34 long-term care ombudsman program, or a local law enforcement  
35 agency receives a report of abuse, neglect, or abandonment of an  
36 elder or dependent adult alleged to have occurred in a long-term  
37 care facility, that county adult protective services agency,  
38 long-term care ombudsman coordinator, or local law  
39 enforcement agency shall report the incident to the licensing  
40 agency by telephone as soon as possible.

1 (f) County adult protective services agencies, long-term care  
2 ombudsman programs, and local law enforcement agencies shall  
3 report the results of their investigations of referrals or reports of  
4 abuse to the respective referring or reporting agencies.

5 (g) This section shall become operative on January 1, 2013.

6 ~~SEC. 3.—~~

7 SEC. 11. Section 15655.5 of the Welfare and Institutions  
8 Code is amended to read:

9 15655.5. A county adult protective services agency shall  
10 provide the organizations listed in paragraphs (v), (w), and (x) of  
11 Section 15610.17, and mandated reporters of suspected financial  
12 ~~elder or dependent adult abuse~~ *abuse of an elder or dependent*  
13 *adult* pursuant to Section 15630.1, with instructional materials  
14 ~~regarding elder and dependent adult abuse and neglect abuse and~~  
15 *neglect of an elder or dependent adult* and their obligation to  
16 report under this chapter. At a minimum, the instructional  
17 materials shall include the following:

18 (a) An explanation of ~~elder and dependent adult abuse and~~  
19 *neglect abuse and neglect of an elder or dependent adult*, as  
20 defined in this chapter.

21 (b) Information on how to recognize potential ~~elder and~~  
22 *dependent adult abuse and neglect abuse and neglect of an elder*  
23 *or dependent adult*.

24 (c) Information on how the county adult protective services  
25 agency investigates reports of known or suspected abuse and  
26 neglect.

27 (d) Instructions on how to report known or suspected incidents  
28 of abuse and neglect, including the appropriate telephone  
29 numbers to call and what types of information would assist the  
30 county adult protective services agency with its investigation of  
31 the report.

32 (e) *This section shall remain in effect only until January 1,*  
33 *2013, and as of that date is repealed, unless a later enacted*  
34 *statute, that is enacted before January 1, 2013, deletes or extends*  
35 *that date.*

36 SEC. 12. Section 15655.5 is added to the Welfare and  
37 Institutions Code, to read:

38 15655.5. A county adult protective service agency shall  
39 provide the organizations listed in paragraphs (v), (w), and (x) of  
40 Section 15610.17 with instructional materials regarding elder



1 *and dependent adult abuse and neglect and their obligation to*  
2 *report under this chapter. At a minimum, the instructional*  
3 *materials shall include the following:*

4 *(a) An explanation of elder and dependent adult abuse and*  
5 *neglect, as defined in this chapter.*

6 *(b) Information on how to recognize potential elder and*  
7 *dependent adult abuse and neglect.*

8 *(c) Information on how the county adult protective service*  
9 *agency investigates reports of known or suspected abuse and*  
10 *neglect.*

11 *(d) Instructions on how to report known or suspected incidents*  
12 *of abuse and neglect, including the appropriate telephone*  
13 *numbers to call and what types of information would assist the*  
14 *county adult protective service agency with its investigation of*  
15 *the report.*

16 *(e) This section shall become operative on January 1, 2013.*

17 *SEC. 13. Sections 2, 4, 5, 7, 9, and 11 of this act, shall*  
18 *become operative January 1, 2007.*